



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE CA 95110

COPY MAILED

APR 07 2005

OFFICE OF PETITIONS

In re Application of
Howard M. Kingston, Marc R.
Anderson, Ye Han
Application No. 10/004,627
Filed: December 4, 2001
Attorney Docket No. M-15307 US

:
:
: DECISION DISMISSING PETITIONS
: UNDER \$ 1.48(a) and \$ 1.183
:
:
:
:
:
:

This is a combined decision on the petitions under 37 CFR 1.47(a) and 37 C.F.R. § 1.48(a), filed April 16, 2004. The petition under 37 C.F.R. § 1.47(a) is properly treated as a petition under § 1.183 to waive the requirement under § 1.48(a)(3) for execution of the declaration by all of the actual inventors.

The above-identified application was filed on December 4, 2001. A properly executed declaration identifying sole inventor Howard Kingston was filed on February 12, 2002, in response to a Notice to File Missing Parts mailed December 31, 2001. On April 16, 2004, the instant request under § 1.48(a) was filed to amend the inventorship to add joint inventors Marc R. Anderson and Ye Han. Accompanying the petition were statements from added inventors Anderson and Han stating that the inventorship error occurred without deceptive intention; and a declaration executed by Anderson and Han.

37 CFR 1.48(a) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the inventorship error occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (2), and (4). The petition specifically requests the addition of inventors Anderson and Han. Petitioner has paid the processing fee. However, the petition does not satisfy requirement (5). The petition includes a statement signed by the "Director and Chief Technical Officer of Metars, Inc.", who states that the assignee consents to the change in inventorship.¹ A "Director and Chief Technical Officer" is not presumed to have authority to sign on behalf of the assignee corporation. On renewed petition, petitioner must submit a statement from an officer - e.g. President, Vice-President, Secretary, Treasurer, or Chief Executive Officer. Alternatively, the person making the statement may simply state that he or she is authorized to sign on behalf of the corporation.²

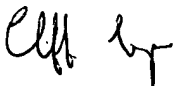
Accordingly, the petition under § 1.48(a) is **DISMISSED**.

The petition under § 1.183 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183 and 37 CFR 1.48(a)". This is **not** a final agency decision within the meaning of 5 USC 704.

Pursuant to petitioner's authorization, the following fees have been charged to Deposit Account No. 50-2257: \$130 fee in effect as of April 16, 2004, for the petition under 37 C.F.R. § 1.183 (37 C.F.R. § 1.17(f)), \$130 processing fee (37 C.F.R. § 1.17(i)).

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

¹ Office records show the assignment is recorded at Reel/Frame 012827/0593.

² See MPEP 409.03(b).